

Rule Chapter 1200-01-07  
Solid Waste Processing and Disposal

Amendments in redline form

Paragraph (2) of Rule 1200-01-07-.01 Solid Waste Disposal Control System: General is amended by adding the following definitions alphabetically to the definitions at paragraph (2).

“Calculated controlled generation” means the total tonnage of Class I, Class III, and Class IV disposal and all recycled materials directly controlled by local governments.

“Controlled recyclable material” means any material reclaimed, recovered or recycled by a covered local government’s public collection system.

“Municipal Solid Waste” (MSW) means any garbage, refuse, industrial lunchroom or office waste, household waste, household hazardous waste, yard waste and any other material resulting from the operation of residential, municipal, commercial or institutional establishments and from community activities which are required to be disposed of in a Class I landfill, as defined in regulations adopted pursuant to T.C.A. Title 68, Chapter 211; provided, that “municipal solid waste” does not include the following:

- (a) Radioactive waste;
- (b) Hazardous waste as defined in T.C.A. §68-212-104;
- (c) Infectious wastes;
- (d) Materials that are being transported to a facility for reprocessing or reuse; provided further, that reprocessing or reuse does not include incineration or placement in a landfill; and
- (e) Industrial waste which may include office, domestic or cafeteria waste, managed in a privately owned solid waste disposal system or resource recovery facility, if such waste is generated solely by the owner of the solid waste disposal system or resource recovery facility.

“Local government” means any county, municipality, city or other political subdivision of this state, including any school districts or school systems created thereby.

“Material derived fuels” means materials taken from a waste stream such as scrap tires or wood waste that can be used in the production or use as fuel for energy recovery.

“Maximum practicable reduction” means the point at which no further reasonable reduction is capable as determined by qualitatively reviewing waste reduction, recycling systems, current markets, and economic trends.

“Waste to energy facility/combustor” means a facility where recovered municipal solid waste is converted into a usable form of energy, usually through combustion.

Regulatory Authority: T.C.A. §§ 68-211-102(a), 68-211-105 (b), 68-211-105(c), 68-211-106(a)(1), 68-211-107(a), and 68-211-111(d)(1).

The Table of Contents to Chapter 1200-01-07 Solid Waste Processing and Disposal shall be amended by changing the title of Rule 1200-01-07-.09 from “Waste Disposal Reduction Goal” to “Waste Reduction Goal”.

Rule 1200-01-07-.09 Waste Disposal Reduction Goal is amended by deleting the current rule in its entirety and substituting the following, so that, as amended, the rule shall read as follows:

1200-01-07-.09 Waste ~~Disposal~~ Reduction Goal

- (1) General Purpose ~~and Applicability~~

- ~~(a) The goal of the state is to reduce by twenty-five percent (25%) the amount of solid waste disposed of at municipal solid waste disposal facilities and incinerators by December 31, 2003, as measured on a per capita basis within Tennessee by weight. The goal shall also apply to each municipal solid waste region; but does not apply to individual disposal facilities or incinerators. Individual disposal facilities or incinerators are used only as measurement locations for assessing the achievement of a region's waste reduction efforts. As an alternative to calculating the waste reduction goal on a per capita basis, regions shall have the option of calculating the goal on an economic growth basis using the method prescribed by the Department and approved by the Municipal Solid Waste Advisory Committee.~~
- (a) The goal of the state is to increase recycling and reduce annually the amount of solid waste going to Class I, Class III, and Class IV landfills. This goal sets the purpose for this rule.
- (b) Any generator as described in this subparagraph of Municipal Solid Waste shall reduce annually its waste going to landfills to reach a level of the maximum practicable reduction.
1. Municipalities with a population greater than or equal to twenty thousand (20,000) people according to the most current U.S. Census Estimated Population will meet the quantitative recycling goal as described in subparagraph (d) of this paragraph.
  2. Municipalities with a population less than twenty thousand (20,000) people according to the most current U.S. Census Estimated Population will meet the qualitative goal as described in subparagraph (e) of this paragraph.
  3. County governments with a population greater than or equal to twenty-five thousand (25,000) people according to the most current U.S. Census Estimated Population are required to meet the quantitative recycling goal as described in subparagraph (d) of this paragraph.
  4. County governments with a population less than twenty-five thousand (25,000) people according to the most current U.S. Census Estimated Population will be required to meet the qualitative goal as described in subparagraph (e) of this paragraph.
  5. State government and its institutions are required to meet this goal. Progress will be determined through a state departmental survey as described in subparagraph (f) in this paragraph to benchmark recycling activity.
  6. Private entities are required to meet this goal. Progress will be determined through a private sector survey as described in subparagraph (f) in this paragraph to benchmark recycling activity.
  7. Individuals are considered under their respective jurisdictional government.
- (c) For the purpose of this rule, the term major and minor covered local governments shall mean:
1. Major covered local governments shall mean all of the local governments described in parts (b)1 and 3 of this paragraph and their agencies, boards, and other subdivisions.
  2. Minor covered local governments shall mean all of the local governments described in parts (b)2 and 4 of this paragraph and their agencies, boards, and other subdivisions.

- (d) Quantitative Recycling Goal. All major covered local governments shall meet a 20% quantitative recycling goal and reduce waste going to landfills annually. They shall accomplish this goal within five (5) years of the effective date of this rule and shall be measured annually thereafter using a recycling ratio formula as noted below:

$$\% \text{ Recycled} = \frac{\text{Controlled recyclable material collected}}{\text{Calculated controlled generation}}$$

- (e) Qualitative Recycling Goal. Minor covered local governments identified by the criteria in parts (b)2 and 4 of this paragraph will meet a qualitative goal based on services offered until such time as the minor covered local government's population surpasses the population benchmark in part (b)1 or 3 of this paragraph. This will be their goal. At that time the minor covered local government having surpassed the population threshold, will then be considered a major covered local government and be required to meet the quantitative recycle goal listed in subparagraph (d) of this paragraph within two (2) years.

1. The Department shall evaluate covered local governments defined in part (c)2 of this paragraph to determine if they are qualitatively equivalent to similar covered local governments based upon elements of an integrated solid waste management system. This assessment will be an objective comparison based on:

- (i) Waste reduction and recycling programs and systems;
- (ii) Waste reduction, recycling, and solid waste education programs and systems;
- (iii) Waste collection and handling systems; and
- (iv) Solid waste program budget and staffing.

2. The Best Management Practices guidance document noted in subparagraph (2)(a) of this rule, once adopted, will also be used as further guidance during the qualitative review process.

3. The methodology shall make comparisons between covered local governments that are as similar as possible in terms of population and socio-economic level to determine if the covered local government qualitatively meets the goal.

- (f) The Department shall complete a survey of the private sector and the State agencies, to be conducted in years ending in zero (0) and five (5), to establish initially a baseline index for waste reduction and recycling activities in the private sector and the State agencies and then to monitor change.

1. These surveys will:

- (i) Be an index type survey based on Standard Industrial Classification (or SIC) code sectors or equivalent performed by the Department or its representative.
- (ii) Identify and report barriers that interfere with the private sector's attempts to recycle.
- (iii) Be designed to facilitate data collection and reporting.

- (g) The Department shall review the goal on years ending in zero (0) and five (5) and recommend amendments to this rule if needed to provide a challenging, but reasonable, goal.

- (h) All Class I, III, and IV landfills shall submit reports to the Department as required by paragraph (5) of this rule.

(2) Waste Reduction ~~Methods~~

~~(a) The Department may consider a variety of options that a region shall take into account in meeting the twenty-five percent (25%) goal. As used in rule 1200-1-7-.09, "municipal solid waste" (MSW) means any garbage, refuse, industrial lunchroom or office waste, household waste, household hazardous waste, yard waste and any other material resulting from the operation of residential, municipal, commercial or institutional establishments and from community activities which are required to be disposed of in a Class I landfill, as defined in regulations adopted pursuant to T.C.A. Title 68, Chapter 211; provided, that "municipal solid waste" does not include the following:~~

- ~~1. Radioactive waste;~~
- ~~2. Hazardous waste as defined in T.C.A. §68-212-104;~~
- ~~3. Infectious wastes;~~
- ~~4. Materials that are being transported to a facility for reprocessing or reuse; provided further, that reprocessing or reuse does not include incineration or placement in a landfill; and~~
- ~~5. Industrial waste which may include office, domestic or cafeteria waste, managed in a privately owned solid waste disposal system or resource recovery facility, if such waste is generated solely by the owner of the solid waste disposal system or resource recovery facility.~~

(a) The Department shall prepare waste reduction and recycling best management practices guidance that covered local governments may implement as needed to attain the statewide waste reduction and local recycling goals.

~~(b) Waste reduction methods or activities include, but are not limited to, the following:-~~

- ~~1. Any "municipal solid waste" diverted from a Class I disposal facility to a Class III or Class IV disposal facility as provided under rules 1200-1-7-.01 through 1200-1-7-.04 adopted pursuant to the provisions of T.C.A. Title 68, Chapter 211, Part 4.~~

(b) Class III and Class IV materials. Materials received at Class III or Class IV landfills are not considered toward the waste reduction goal unless the materials are recycled or used for beneficial use activities.

(c) Energy recovery and production. Material derived fuels redirected to waste-to-energy facility/combustors for energy recovery and production shall be considered toward the goal.

1. To calculate the tons of waste reduction the following formula shall apply:

$$T^i - T^o = T^R$$

Where:

$T^i$  = tons of raw material input into the energy recovery system;

$T^o$  = tons of residual material output from the energy recovery system; and

$T^R$  = tons reduced.

2. Waste incinerated without energy recovery and for the purpose of volume reduction will receive no credit.

- 2-(d) Composting of "municipal solid waste". ~~The composting of municipal solid waste must have a market for such composted product in order to be considered as a method for waste reduction.~~ Only the portion of composted municipal solid waste that is sold or beneficially used may be counted as recycling or towards the waste reduction goal.
- 3-(e) Recycling. Recycling constitutes a method of waste reduction so long as the recovered materials are marketed for recycling, or are stored for recycling at a solid waste management facility and at least seventy-five percent (75%) of the stored material must be marketed within the succeeding twelve (12) months. The following processes shall not be considered as marketing of recyclable materials nor counted toward the ~~25%~~ goal:
- (i)1. Collection or material handling in preparation for buyers ~~pending market~~.
  - (ii)2. Storage of unprocessed or processed materials. Unprocessed municipal solid waste is not considered as being recyclable ~~pending market~~.
- 4-(f) Source reduction of "municipal solid waste". Source reduction measures as a method of waste reduction may include industrial process modification, feedstock substitutions or improvements in feedstock purity, various housekeeping and management practices, increases in the efficiency of machinery, and recycling within a process.
- (i)1. Source reduction may also include reduction in the amount and toxicity of waste generated by residential and commercial sectors, through such measures as product substitution, home composting and recycling.
  - (ii)2. Source reduction may also be achieved through the encouragement of consumer habits that include the selection of products that have reduced and recyclable packaging, and the re-use of durable goods.
- ~~5. Problem waste diversion. The diversion of waste tires, used oil, lead-acid batteries, paints and other problem waste, as determined and identified by the Department, from a Class I disposal facility for recycling constitutes waste reduction. Problem wastes diverted from a Class I disposal facility and stored for recycling at a municipal solid waste management facility until marketed qualifies as waste reduction when diverted.~~
- 6-(g) Mulching of "municipal solid waste". ~~Any non-treated wood waste that may be converted to a mulch must have a market in order to be considered as a method for waste reduction.~~ Only the portion of mulch made from municipal solid waste that is sold or beneficially used may be counted as recycling or towards the waste reduction goal.
- (h) Vermicomposting. Large scale vermicomposting operations that utilize windrows or raised bed/flow through systems are acceptable methods of waste reduction. Smaller scale containers may be used for residential operations.

(3) ~~Region's~~ Waste Reduction Plan

- (a) All covered local governments shall prepare and implement a waste reduction plan. Municipalities along with counties shall submit a copy of their plan to the municipal solid waste planning region creating an aggregated copy of the plan for the municipal solid waste planning region for submission to the Department.
- ~~(a)~~(b) A ~~region's~~ covered local government's waste reduction and recycling plan shall be consistent with T.C.A. § 68-211-815, the municipal solid waste planning region's plan, the guidelines issued by the ~~Division~~ Department, and the State's solid waste reduction plan. Such ~~a~~ plan shall explain the ~~region's~~ covered local government's waste reduction and recycling methods, strategies, and timetables for implementation. The ~~region~~ covered local government may use any combination of methods; ~~however, the following methods or practices will not be considered in the calculation for the region's waste reduction plan:~~

as described in subparagraphs (2)(b) through (h) of this rule or in the best management practices guidance noted in subparagraph (2)(a) of this rule.

~~1. Incineration;~~

~~2. Unmarketed municipal solid waste compost;~~

~~3. Recovered materials (other than problem wastes) stored for recycling without being marketed as prescribed by rule 1200-1-7-.09(2)(b)3; and~~

~~4. Illegal or unauthorized storage or disposal of municipal solid waste.~~

~~(b) The twenty-five percent (25%) goal applies to only the waste that has been going to Class I landfills or municipal solid waste incinerators. Measurements of waste are to be based on the amount of waste entering a disposal facility prior to combustion or landfilling. Materials recovered or collected for recycling at these facilities prior to combustion or landfilling shall be weighed and deducted from the total amount being disposed.~~

~~(c) The region shall present its calculation of the twenty-five percent (25%) reduction on a per capita basis or the economic growth basis to be prescribed by the Department in accordance with paragraph (1) of this rule. The county waste reduction plan shall be the aggregate of the county government and all the covered local governments' waste reduction plans within the county.~~

~~(d) The region plan shall utilize the base year of 1995 for measuring waste reduction unless a region can demonstrate that the 1995 data is clearly in error. A region may receive credit toward the waste reduction goal from recycling and source reduction programs prior to 1995, but no earlier than 1985. The region shall notify in writing the Division Director of such an error and request approval of any adjustment to the 1995 data. All municipal solid waste planning regions shall submit a waste reduction plan to the Department that is an aggregate of all covered local governments' plans within the planning region.~~

~~(e) Waste reduction plans in accordance with T.C.A. § 68-211-815 will also contain at a minimum but not limited to:~~

~~1. Specific waste reduction programs currently offered;~~

~~2. A schedule of waste reduction programs and services to be offered with the implementation dates;~~

~~3. An ongoing plan for marketing commodities collected for recycling;~~

~~4. An assessment of infrastructures needed to implement the plan; and~~

~~5. A plan to manage debris during disaster situations that provides for waste reduction, recycling, and diversion of material from landfills resulting from such disasters.~~

~~(e)(f) By March 31 of each year, each region~~ Each municipal solid waste planning region shall submit the aggregated waste reduction plan and an annual progress report to the ~~Division~~ Department in accordance with paragraph (5) of this rule. Pursuant to T.C.A. §§ 68-211-816 and 68-211-871, such reports shall include, at a minimum, the amount and type of recycled materials collected in the region.

~~(g) To implement the waste reduction and recycling goal, the Department shall require an update of all solid waste plans to be completed by December 31, 2015. This update will~~

address all changes relating to the waste reduction and recycling goals defined in this rule.

- (h) This waste reduction plan shall be a component of the region's municipal solid waste plan.

(4) ~~Qualitative Assessment Methods Enforcement~~

- (a) ~~An assessment method shall be developed by the Department of Environment and Conservation and approved by the Municipal Solid Waste Advisory Committee. This assessment will be applied to Municipal Solid Waste Planning Regions that failed to meet the twenty-five percent (25%) waste reduction and diversion goal stated in T.C.A. §§ 68-211-861(a) according to the 2003 Annual Progress Report submitted to the Division. The qualitative assessment will objectively assess the activities and expenditures of both the Municipal Solid Waste Planning Region and the local governments in the region to determine whether the region's program is qualitatively equivalent to other regions that meet the goal and whether the failure is due to factors beyond the control of the region. Except as provided in subparagraph (b) of this paragraph, failure to comply with the applicable requirements of this rule will subject any entity to the penalties provided by T.C.A. §§ 68-211-816 and 68-211-861.~~

- (b) ~~The qualitative assessment shall be done in the following two steps:~~ Covered local governments failing to meet the waste reduction or recycling goal after 2015 shall be reviewed by the Department. A determination will be made based on the following as to the course of action required by the covered local government to attain the goal.

1. ~~The Department shall use the waste and diversion reported by the solid waste region for the most current reporting period to determine whether in that year twenty-five percent of the solid waste generated in that year was either diverted from class I facilities or recycled. If it was, the region meets the qualitative assessment and the department does not proceed to the next step. Covered local governments with Recycling Ratios of 15%-19% as calculated by subparagraph (1)(c) of this rule. The covered local government will be notified of non-compliance once received by the Department. The Department shall qualitatively assess covered local governments failing to meet the established statewide waste reduction and local recycling goals. The Department shall determine and recommend waste reduction programs, best management practices, and activities to be implemented to improve the covered local government's waste reduction efforts. The covered local governments shall timely implement by ordinance the identified recommendations and within two (2) years achieve the goal. If the covered local government fails to comply with this part, the Commissioner may assess penalties stated in T.C.A. §§ 68-211-816 and 68-211-861.~~

2. ~~The Department shall evaluate the programs in those regions that do not satisfy subparagraph (2)(a) above to determine if they are qualitatively equivalent to those that did meet the 25% recycling and diversion goal by evaluating at least the following solid waste program activities for the most current reporting period, giving the first two items the greatest weight:~~

~~(i) waste reduction and recycling programs and systems;~~

~~(ii) waste diversion programs and systems;~~

~~(iii) solid waste education programs and systems;~~

~~(iv) waste collection and handling systems; and~~

~~(v) solid waste program budgets and staffing.~~



~~The methodology shall make comparisons between regions that are similar as possible in terms of population and social-economic level to the region that failed to meet the goal. Covered local governments with Recycling Ratios of 10% -14% as calculated by subparagraph (1)(c) of this rule. The covered local government shall be notified of non-compliance once received by the Department. The Department shall direct the local development district to provide a comprehensive Needs Assessment of all solid waste systems under the control of that covered local government identifying deficiencies in their solid waste programs. The Department, based on the Needs Assessment, will make recommendations of programs, best management practices, and activities to be implemented to improve waste reduction efforts. The covered local government shall timely implement by ordinance the identified recommendations and within two (2) years achieve the goal. If the covered local government fails to comply with this part, the Commissioner may assess penalties stated in T.C.A. §§ 68-211-816 and 68-211-861.~~

3. ~~Covered local governments with Recycling Ratios of 0%-9% as calculated by subparagraph (1)(c) of this rule. The covered local government shall be notified of non-compliance once received by the Department. The Department shall direct the local development district to provide a comprehensive Needs Assessment of all solid waste systems under the control of the covered local government identifying deficiencies in their solid waste programs. The Department, based on the Needs Assessment, will make recommendations of programs, best management practices, and activities to be implemented to improve waste reduction efforts. The Department shall set quarterly milestones to monitor the covered local government's progress towards the goal. Quarterly progress reports shall be made to the Department updating the milestone progress. The covered local government shall timely implement by ordinance the identified recommendations and within two (2) years achieve the goal. If the covered local government fails to comply with this part, the Commissioner may assess penalties stated in T.C.A. §§ 68-211-816 and 68-211-861.~~

(5) Reporting

- (a) ~~Class I, Class III, and Class IV landfills shall report to the Department, on forms provided by the Department, the origin and tonnage (construction and demolition materials converted from cubic yards at 4 cubic yards per ton) on a quarterly basis within thirty (30) days after the end of the quarter.~~
- (b) ~~All municipal solid waste planning regions shall submit by March 31<sup>st</sup> in the calendar year immediately following the reporting year their annual progress report. The covered local government may request in writing prior to the due date an additional thirty (30) days to submit all required information. Additional time may be granted by the Commissioner for good cause shown.~~

Regulatory Authority: T.C.A. §§68-203-103(b)(3), 68-211-102(a), 68-211-105(c), 68-211-106(a)(1), 68-211-107(a), 68-211-111(d)(1) and (2), 68-211-815, 68-211-816, 68-211-849(d), 68-211-851(a), 68-211-851(b), 68-211-851(d)(1) and (2), 68-211-852, 68-211-853, 68-211-861(g), 68-211-862(a), 68-211-871(a)(b)(e), 68-211-872.

Paragraph (1) of Rule 1200-01-07-.10 Convenience Centers/County Public Collection Receptacles is amended by deleting the current paragraph and substituting the following language, so that, as amended, the paragraph shall read as follows:

(1) Purpose

- (a) This rule shall establish the minimum level of service which every county must provide in order to assure that all residents of a county are provided with collection and disposal service.



- (b) This rule shall establish minimum standards for the design and operation of convenience centers if such service is selected by a County.
- ~~(c) This rule shall establish the economic index and local matching rates for grant assistance to counties to establish and upgrade convenience centers.~~
- ~~(d)~~(c) This rule shall establish requirements for operation and use of county public collection receptacles for municipal solid waste.

Paragraph (5) of Rule 1200-01-07-.10 Convenience Centers/County Public Collection Receptacles is amended by deleting the current paragraph in its entirety and renumbering the remaining paragraphs in the Rule.

~~(5) Economic Index~~

- ~~(a) Matching rates for convenience center grants shall be determined using the mean of a county's rank for equalized property tax generation and per capita income. Property tax generation shall be the equalized value of property as published in the Tennessee State Tax Aggregate Report by the State Board of Equalization. Per capita income shall be the income figure published by the United States Department of Commerce, Bureau of Economic Analysis.~~
- ~~(b) The Department shall issue annually in March the County ranking based on this mean.~~
- ~~(c) The local share required to match grant funds shall be 10% for those counties in the lower one-half (½) of the economic index. Those counties in the upper one-half (½) of the economic index shall be required to provide a 20% local match.~~

Subparagraph (a) of paragraph (6) of Rule 1200-01-07-.10 Convenience Center/County Public Collection Receptacles is amended by deleting the current subparagraph and substituting the following language, so that, as amended the subparagraph shall read as follows:

- (a) ~~By March 31 of each year, e~~Each county which maintains and uses receptacles for the collection of municipal solid waste from the general public at sites separate from a convenience center shall ~~develop a plan for the elimination or conversion to manned convenience centers as defined in paragraph (2) of Rule 1200-01-07-.01 by June 30, 2015 to be implemented by June 30, 2020. The county will include the following information as part of the Solid Waste Region's municipal solid waste planning region's annual report (which is submitted to the Department) until said collection receptacles are eliminated or converted:~~
  1. The number of receptacles in the County;
  2. The location of all receptacles ~~by street address and geo-code (longitude and latitude);~~
  3. Collection times for such receptacles; and
  4. Operation procedures and security measures adopted and enforced to maintain and service the receptacles and to ensure the protection of public health and safety. Such information ~~is required by~~ this part must be in the form of a narrative manual and meet the minimum requirements of subparagraph (b) ~~of this paragraph.~~

Regulatory Authority: T.C.A. §§ 68-203-103(b)(3), 68-211-102(a), 68-211-106(a)(1), 68-211-107(a), 68-211-111(d)(1) and (2), 68-211-105(b), 68-211-851(a), and 68-211-853.